

RECEIVED
JUL 29 2005
DEPARTMENT OF
WATER RESOURCES

Madeline Carol Bishop
William Vernon Bishop
24 Hull Creek Road
P.O. Box 236
North Fork, ID 83466

Water Right Number 75-4494A and Water Right Number 75-4496A

July 24, 2005

Roxanne Brown
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Subject: Evidence of Priority Dates on above water rights.

First and foremost we would like to say, right up front, it is our sincere belief that both of our water rights, listed above, are valid water rights (claims) and **the priority dates of 04/01/1908, on both, are also very valid.** Hopefully, we can convince you of the same.

We received your letter, requiring the evidence of priority dates, on July 7, 2005. The letter only gave us until July 29, 2005 to provide you with evidence of these 1908 priority dates. Per Bob Foster, something like 1300 of these letters went out at the same time. The result was a Lemhi County Clerk's office that could not handle all the demands to look up old records. I did get to look up a few things but very few. Much evidence will have to wait until the current record demand slows. At any rate, I will present what I have and I'm confident you will most likely see the validity of my priority dates. If further evidence must be located and produced, down the road, we shall do so.

Our property is located at the intersection of the North Fork Salmon River and Hull Creek. We live, full time, on this property and both of the above water rights are used on this same property. Our eastern property boundary runs up the center of the North Fork Salmon River and Hull Creek runs along our northern boundary but about 100 feet onto the adjacent property. At one time, our property was part of a large ranch and both streams ran though the central portions of the ranch.

Our property lies mostly in the H.E. Survey #89. This 79 acre piece of land was claimed, by homestead, by Charles M. Hull and recorded such on Nov. 9th, 1916. We have attached a copy of this recorded patent 522238.

A small portion of our property lies on H.E. Survey #647. This 51 acres was claimed, by homesteading, by John H. Roske on April 6th, 1922. We have attached a copy of this recorded patent 853662.

**Madeline Carol Bishop
William Vernon Bishop
Water rights 75-4494A and 75-4496A
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The Hull Creek and North Fork Salmon River waters were clearly being used on a steady basis far before the above 1916 and 1922 dates. The further one goes back in history, the more important bottom land became. Nearly everything involved the use of horses, mules, and oxen. Every possible field, in these bottom lands, was irrigated for hay and pasture. It had to be! People had to have large gardens and fruit trees. It is estimated the town of Gibbonsville, a few miles north of us had a population between 2500 and 3500 in the 1880's. Additional, in the late 1800's and early 1900's, large mining operations were in full swing on Hughes Creek, even closer to my location. The demand for stock, hay, and home grown gardens was huge!! The use of water was a must!

In the book Centennial History of Lemhi County Vol II, written by the Honorable Judge Fred Snook, Chairman, and a local historical committee, it states that Charles Hull settled on the North Fork, at Hull Creek, around 1900. On his 79 acres of good farm and hay land he raised a large garden, an orchard, sheep, a few cattle, and horses. In the same books, Vol I, it states that a school was built and opened in 1908 at the confluence of Hull Creek and North Fork Salmon River. The foundation for the school is still visible and only a few hundred feet from the north east corner of our property.

Our point is a simple one: There was a great deal of activity in the area of our property around 1900 and before. Water was very important and used to make hay and pasture on all available bottom lands, here in the area of our property. At the moment, we can't tell you how the original priority date on our water rights was determined. The 1908 priority date was 97 years ago; there are no living witnesses, that we know of. But knowing a little history of the area, common sense will tell you the water was being used on these properties on that date. There certainly is no reason to question this priority date.

The Hull family lived along the shore of Hull Creek a few hundred yards upstream from the confluence with North Fork Salmon River. Their home burned in 1917. Neighbors helped them quickly build a new home and that new home is still standing a few hundred feet north of our north property line.

We would like to point out that our water rights, 75-4494A and 75-4496A, are not the only water rights in the area with a priority date of 04/01/1908. The following water rights, which do not belong to me, but are in our immediate area, also have a priority date of 04/01/1908. They are 75-4494A, 75-4494G, 75-4494F, 75-10589, 75-4138, 75-4138A, 75-4138D, and 75-4494E. There are probably more than I have listed here. The reason they all have the same priority date as my water rights is because they were once all part of the same larger ranches. They are either all valid or none of them are valid.

We are also attaching two letters from people who have witnessed the use of our water rights on our property in more recent times, specifically since about 1943. The signatures of these witnesses, on both letters, have been notarized. Mr. Naugle writes of the use of water on our property since we have owned the property. Mr. Maxwell writes of the use of water on our property since about 1943.

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The water from both the North Fork Salmon River and Hull Creek is currently being utilized to irrigate our property. We have spent thousands of dollars on these systems since we purchased this property in 1993. The Dept of Water Resources led us to believe these water rights were totally valid when we purchased this property. We believe both these water rights are valid. We believe the priority dates on both (04/01/1908) are valid. These waters have been utilized on these properties, continually during the spring, summer, and fall seasons since sometime before 1900 and they continue to be used today. We are presenting what evidence we currently possess concerning this issue. Hopefully, we won't have to search for further evidence, however, we shall if necessary.

If we can be of further assistance in this very important matter please so advise and we will attempt to accommodate you. We would gladly meet with you in the area or in Boise if necessary. Our goal is to validate these water rights and the 1908 priority dates on these rights as they have been on file for years.

Thank you for your time and considerations,

Madeline Carol Bishop
7/25/05

Madeline Carol Bishop

William Vernon Bishop
7/25/05

William Vernon Bishop

Attachments

State of Idaho	County of Lemhi
On this 25 day of July, 2005, before me, <u>Deanna J. Fletcher</u> , a Notary Public in and for said county and state, personally appeared <u>Madeline + William Bishop</u> known or proved to me to be the person(s) who executed the foregoing instrument, and acknowledged to me that they executed the same.	
<u>Deanna J. Fletcher</u> Notary Public for Idaho	
Residing at <u>Salmon, Id</u>	Commission term <u>7-26-2010</u>



THE UNITED STATES OF AMERICA,

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, a Certificate of the Register of the Land Office at Hailey, Idaho, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Charles M. Hull has been established and duly consummated, in conformity to law, for the H. E. Survey No. 89, comprising Tracts A and B, embracing a portion of the unsurveyed public domain, Idaho, more particularly bounded and described as follows:

Beginning for the description of Tract B at corner No. 1, from which the north quarter corner of Section four in Township twenty-four north of Range twenty-one east of the Boise Meridian bears south nineteen degrees, forty-two minutes, forty-five seconds east one hundred eleven and eighty-two-hundredths chains distant; thence north one degree, nine minutes east fifteen and sixty-six-hundredths chains to corner No. 2; thence north forty-nine degrees, twenty-eight minutes west five and thirty-eight-hundredths chains to corner No. 3; thence north fifty-seven degrees, twenty-one minutes west six chains to corner No. 4; thence north twenty-nine degrees, ten minutes east three and sixty-four-hundredths chains to corner No. 5; thence south eighty-three degrees, fifty-two minutes east eight and forty-nine-hundredths chains to corner No. 6; thence south eleven degrees, fifty-nine minutes west five and seventy-eight-hundredths chains to corner No. 20; thence south seventy-five degrees, eighteen minutes east seven and two-hundredths chains to corner No. 21; thence south eighty degrees, forty-three minutes east six and twenty-five-hundredths chains to corner No. twenty-two; thence south thirty-three degrees, twenty-four minutes west twelve and fifty-nine-hundredths chains to corner No. 23; thence south forty-seven degrees, seventeen minutes west eight and forty-four-hundredths chains to corner No. 1, the place of beginning;

Beginning for the description of Tract A at corner No. 16, from which U. S. Forest Service Monument bears south sixty-two degrees, thirty-five minutes east one and forty-two-hundredths chains distant; thence south eighty-three degrees, forty-seven minutes west five and twenty-seven-hundredths chains to corner No. 17, from which corner No. 22 of said Tract B bears south one degree, thirty-two minutes west fifty links distant; thence north eighty degrees, forty-three minutes west six and fifteen-hundredths chains to corner No. 18; thence north seventy-five degrees, eighteen minutes west six and fifty-three-hundredths chains to corner No. 19; thence north eleven degrees, fifty-nine minutes east five and eighty-four-hundredths chains to corner No. 7; thence north twenty-one degrees, forty-three minutes east seventeen and nineteen-hundredths chains to corner No. 8; thence north thirteen degrees, thirty-one minutes east twenty-three and fifty-five-hundredths chains to corner No. 9; thence south seventy-two degrees, forty-one minutes east four and ninety-four-hundredths chains to corner No. 10; thence south seven degrees, twelve minutes east one and sixty-two-hundredths chains to corner No. 11; thence south forty degrees, fifty minutes east eight and thirty-three-hundredths chains to corner No. 12; thence south three degrees, twenty-five minutes west three and eighteen-hundredths chains to corner No. 13; thence south twenty-six degrees, one minute west six and ninety-one-hundredths chains to corner No. 14; thence south four degrees, fifty-five minutes west four and fourteen hundredths chains to corner No. 15; thence south five degrees, eighteen minutes west twenty-three and eighty-seven-hundredths chains to corner No. 16, the place of beginning, containing seventy-nine acres, according to the Official Plat of the Survey of the said Lana, returned to the General Land Office by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant, the tracts of Land above described; TO HAVE AND TO HOLD the said tracts of Land, with the appurtenances thereof, unto the said claimant, and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Woodrow Wilson President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the THIRTIETH day of MARCH in the year of our Lord one thousand nine hundred and SIXTEEN and of the Independence of the United States the one hundred and FORTIETH.

SEAL.

By the President: Woodrow Wilson
By M. P. LeRoy, Secretary,
L. Q. C. Lamar
Recorder of the General Land Office.

RECORDED: Patent Number 522238

Recorded at the request of C. M. Hull Nov. 9th, 1916 at --- minutes past 11 o'clock A. M., in Book Y of Deeds page 121, Records of Lemhi County, Idaho.

BY *M. W. LeRoy*
Deputy.

J. L. Kirtley, Jr.,
County Recorder.

HES 89 (48)

THE UNITED STATES OF AMERICA,

To All To Whom These Presents Shall Come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at Hailey, Idaho, has been deposited in the General Land Office, whereby it appears, that pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of John H. Roske, has been established and duly consummated, in conformity to law, for the H. E. Survey No. 647, embracing a portion of, approximately, Sections twenty-eight and twenty-nine in Township twenty-five north of Range twenty-one east of the Boise Meridian, Idaho, more particularly bounded and described as follows: Beginning at corner No.1, from which the corner to Sections thirty-two and thirty-three in said Township and Range and Sections four and five in Township twenty-four north of Range twenty-one east of the Boise Meridian, bears south twelve minutes east eighty-eight and thirty-eight hundredths chains distant; thence, north eight degrees thirty-two minutes east seventeen and thirty-hundredths chains to corner No.2; thence, north forty-seven degrees seventeen minutes east eight and forty-four-hundredths chains to corner No.3; thence, north thirty-two degrees fifty-two minutes east twelve and fifty-six-hundredths chains to corner No.4; thence, north eighty-three degrees forty-six minutes east five and thirty-seven-hundredths chains to corner No.5; thence, south twenty degrees twenty minutes west seven and seventy-five-hundredths chains to corner No.6; thence, south twenty-three degrees nine minutes east three and seven-hundredths chains to corner No.7; thence, south one degree five minutes east twenty-seven and eighty-two-hundredths chains to corner No.8; thence, north seventy-nine degrees five minutes west twenty and twenty-nine-hundredths chains to corner No.1, the place of beginning, containing fifty-one acres, according to the Official Plat

Hailey 020293

4-1044.

of the Survey of the said Land, returned to the General Land Office by the Surveyor General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES, unto the said claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Warren G. Harding, President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

SEAL

GIVEN under my hand, in the District of Columbia, the SEVENTH day of MARCH in the year of our Lord one thousand nine hundred and TWENTY-TWO and of the Independence of the United States the one hundred and FORTY-SIXTH.

By the President: Warren G. Harding

By Viola B. Pugh, Secretary,

M. P. LeRoy

Recorder of the General Land Office.

RECORDED: Patent Number 853662

Recorded at the request of Allen C. Merritt April 6th, 1922 at -- minutes past 9 o'clock A.M., in Book 26 of Deeds page 119 Records of Lemhi County, Idaho.

BY Viola B. Pugh

Deputy.

County Recorder.

COUNTY OF LEMHI
TERRILL J. MORTON, CLERK OF THE DISTRICT COURT
OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF LEMHI,
DO HEREBY CERTIFY THAT THE PROCEEDING IS A
TRUE, AND CORRECT COPY OF THE ORIGINAL ON FILE
IN THIS OFFICE. IN WITNESS WHEREOF I HAVE HERE
UNTO SET MY HAND AND AFFIXED MY
OFFICIAL SEAL THIS 11th DAY
OF APRIL YEAR 2005
TERRILL J. MORTON, CLERK
BY B. P. Pugh DEPUTY

HES 647

Larry D. Maxwell
P.O. Box 156
1749 Hwy 93
North Fork, ID 83466
208-865-2401

RECEIVED
JUL 29 2005
DEPARTMENT OF
WATER RESOURCES

July 13, 2005

Dept. of Water Resources
Adjudication Bureau
P.O. Box 83720
Boise, ID 83720-0098

Subject: Water Right Numbers 75-4494A and 75-4496A

Concerning the above water rights, currently owned by Madeline Carol Bishop and William V. Bishop: I was not around in 1908 when these water rights were first filed for but I have lived in the North Fork area since 1939. I can safely say that I can remember these waters being used to irrigate and to water stock on the Bishop's property back until 1942-43 when I first was old enough to remember these things. Additionally, being familiar with the early ranches and knowing many early ranchers, I certainly believe that these waters have been used to irrigate this property, at the least, since 1900 or before.

This property (Bishop's property) consists of a hay field which has always been irrigated, primarily, by a ditch coming out of Hull Creek. This property has been re-seeded by various people over the years and used for both raising hay and for stock. There also were pole fence extensions reaching out into the North Fork Salmon River so as the stock, on Bishop's property could be watered from the North Fork Salmon River. Bishop's property was originally part of a large ranch called the Becker Ranch and the Matiskey Ranch before Becker. The old ranch has now been divided into many parts with many owners. This large ranch always got most of its water from the North Fork Salmon River and the Bishop's property portion also got much of its water out of Hull Creek. None of this large ranch (now multiple pieces of property) has ever been abandoned. It is all valuable bottom land which continues to be irrigated for stock and hay.

I, personally, irrigated the Bishop's property with the water out of Hull Creek, using the old ditch coming out of Hull Creek during the 1990's to grow and process hay, mostly alfalfa. During the same period I also kept horses on the property which were watered by the same water.

Also, during the 1990's (and currently) Mr. Bishop had a pump and 3 inch pipe line coming out of the North Fork Salmon River and crossing his field which he used to supplement the Hull Creek waters. This system pumped water out of the North Fork Salmon River onto Mr. Bishop's property.

The Bishop's have built a home on this property and have lived there, full time, for about 5 years. These waters are used on their property nearly every day.

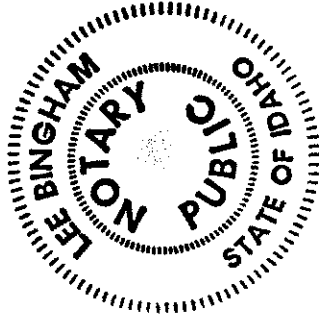
As of today's date, the water coming out of Hull Creek, by ditch, and the water pumping system out of the North Fork Salmon River both continue to be maintained and used on Mr. and Mrs. Bishop's property.

Having lived in the area for so long and having known many of the "old timers", who are now passed on, I certainly believe that the 1908 priority dates on these water rights are most likely accurate. I would also believe these waters have been used on the property, currently owned by Mr. and Mrs. Bishop, since then and before the 1908 date. They certainly have been used for as long as I have been around.

Respectfully,

Larry D. Maxwell

Larry D Maxwell



Larry D Maxwell appeared
Lee Bingham Notary Public
Comm expires 10-7-06

INDIVIDUAL ACKNOWLEDGMENT

State/ Commonwealth of IDAHO } ss.
County of LEWIS

On this the 13 day of July, 2005,
before me, CLAUDIA MAXWELL,
Name of Notary Public

the undersigned Notary Public, personally appeared

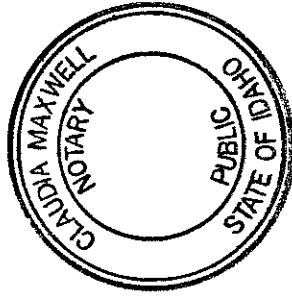
FREDERICK B. NAUGLE

Name of Signer(s)

☒ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed
to the within instrument, and acknowledged that
he/s/he/they executed it.

WITNESS my hand and official seal.



Claudia Maxwell
Signature of Notary Public

OPTIONAL

Though the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document: #75-4494A & #75.4494A
Title or Type of Document: Letter Concerning Water Rights
Document Date: 7/13/05 Number of Pages: 2
Signer(s) Other Than Named Above: NA

RIGHT THUMBPRINT
OF SIGNER #1

Top of thumb here

RIGHT THUMBPRINT
OF SIGNER #2

Top of thumb here

Frederick B. Naugle
P.O. Box 111
North Fork, ID 83466
208-865-2417

July 13, 2005

Concerning: William V. Bishop and Madeline C. Bishop's water rights
Water Right # 75-4494A and #75-4496A

I live along the east bank of the North Fork of the Salmon River directly across the stream from the Bishop's property. Their property is on the west side of the North Fork of the Salmon River. The common property line between us runs down the middle of the North Fork of the Salmon River, thus the west half of the river is on their property for about 1.3 mile.

I have lived here, with my wife, for approximately 14 years and have just recently sold my property (25 acres) to Bruce A. Cole who is another neighbor on another side of my residence. Due to the recent sale of my property, my water rights have been transferred to Bruce A. Cole, the new owner, however, if you will inspect my old water rights (#75-4494A and #75-4494G) you will note that their priority dates are both 04-01-1908, the same date as the priority dates on Bishop's water rights. Furthermore, if you look at the other water rights, in the immediate area, you will find that many more have the same exact priority date. This is because all of these adjoining properties where once one large working ranch.

The original ranch, back at the turn of the 20th century, was made up of bottom lands which all were very fertile when provided with irrigation. That irrigation all came out of the North Fork of the Salmon River and Hull Creek. Some of the northern portions may have also gotten water out of Hughes Creek also.

At any rate, the ranch was slowly divided up and sold to different people until today. Each time a division was made, the different pieces retained proportional amounts of the original water rights.

Back when this ranch was first homesteaded, sometime around 1900, water was extremely important. It was critical that all that could be irrigated was irrigated. The rancher's livelihood depended on it. Thus, common sense will lead one to believe that none of these water rights were ever abandoned. Each one of these properties continued to need and use the water out of the North Fork of the Salmon River and, in the case of Bishop's property, also the water out of Hull Creek.

I can not say that I witnessed any water usage before living here, however, it is very clear to me that these waters have been used to irrigate these properties and to water stock on these properties for as long as these properties have been ranched. These are valuable hay fields that must have water. No one owning these properties would likely ignore those water rights.

I can say that the Bishop's property has been continually irrigated with water coming out of Hull Creek by ditch and by pumping out of the North Fork of the Salmon River for as long as the Bishop's have owned the property (12-13 years). The Bishop's live on the property and irrigate most of it every year.

In the 1990's, I not only observed Mr. and Mrs. Bishop using the Hull Creek and North Fork of the Salmon River waters but I also observed the Bishop's property being irrigated by Larry Maxwell and Claude Johnson who sometimes got two cuttings of hay off the property in the same summer. Larry Maxwell also kept horses on the property several times. Maxwell and Johnson used, primarily, the water out of Hull Creek for these purposes.

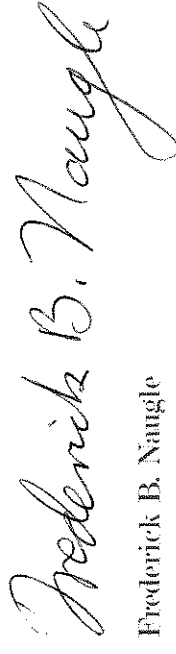
They have been torn down now, but there used to be pole fence extensions protruding into the west side of the North Fork of the Salmon River (on Bishop's property) so stock being kept on Bishop's property could water in the North Fork of the Salmon River.

I believe that the water rights claimed by the Bishop's, my old water rights, and most other water rights in this immediate area are certainly valid water rights. Based on my understanding of the original homesteading of ranches in this area, I believe the priority date of 04-01-1908 on Bishop's water rights are the correct priority date. It is also the same correct priority date on those water rights held by Bruce Cole, Shelly England (Gregoire), Tiff Cummings, Jon Cummings, Cliff Cummings Sr., and probably a few others who now own a part of the original ranch. These water rights (claims) have been on file for all these years; there is no reason to believe these priority dates are not correct and if one examines these lands, prime irrigated fields, one would certainly believe they were most likely always irrigated and used since being homesteaded sometime around 1900 or before.

All of these little pieces of the original ranch are certainly being irrigated with the waters from the North Fork of the Salmon River and from Hull Creek today.

Hopefully, the Dept of Water Resources will fully recommend the court validate those water rights (claims) belonging to William V. Bishop and his wife, Madeline. I would also hope the Dept. will support those other water rights which have the same priority date of 4-1-1908 mentioned above. I think they are clearly all very valid.

Thank you for your considerations,


Frederick B. Naugle